

ARSENEAULT & FASSETT, LLP

JACK ARSENEAULT
DAVID W. FASSETT
ANGEL M. DeFILIPPO

ATTORNEYS AT LAW

560 MAIN STREET
CHATHAM, NEW JERSEY 07928
(973) 635-3366
FAX (973) 635-0855
EMAIL info@af-lawfirm.com

JOHN J. ROBERTS⁺
GREGORY D. JONES

⁺ ALSO ADMITTED IN NEW YORK

November 6, 2019

VIA ECF

Honorable John Michael Vazquez, U.S.D.J.
Frank R. Lautenberg U.S. Courthouse & Post Office
Chambers 417
Two Federal Square
Newark, NJ 07101

**RE: United States v. Joseph Taub
Criminal No. 18-79 (JMV)**

Dear Judge Vazquez:

We represent defendant Joseph Taub. In advance of the November 19, 2019 arraignment on the superseding indictment filed October 23, 2019 [ECF 86], we write to request leave to file a single motion to compel compliance with several Rule 17(c) subpoenas we issued pursuant to the unopposed Letter Order filed July 8, 2019 [ECF 78].

The Letter Order authorized us to subpoena documents from nonparty entities which investigated Mr. Taub's trading activities at various times during the operative period, including brokerage houses and FINRA. We subsequently issued such subpoenas to eight (8) entities – Ally, Charles Schwab, E*Trade, Fidelity, Interactive Brokers, Merrill Lynch, TD Ameritrade, and Wells Fargo – and made them returnable on September 20, 2019. Each of these entities is itself, or is the parent company of, a "Retail Brokerage Firm," as defined in the superseding indictment (ECF 86 at Count One, Paragraph 1.h), in which Mr. Taub and/or others held brokerage accounts used to conduct trading activity within the operative period. As the superseding indictment alleges, these Retail Brokerage Firms offered customers "Price Improvement" and "Enhanced Liquidity" by routing customer orders to "Market Makers" (Id. at Count One, Paragraphs 1.j, 1.k, and 1.c, respectively). They also investigated and closed many of the accounts used by Mr. Taub and/or others to conduct trading activity within the operative period (Id. at Count One, Paragraph 4.f).

Our subpoenas to these eight "Retail Brokerage Firms" are materially identical (but for names and account numbers) and seek documents related to the internal processes, relationships and investigations that precipitated the account closures, as well as the roles played by "Market Makers" to which certain orders were routed. Three of the eight Retail Brokerage Firms have either complied (Merrill Lynch) or agreed to comply (Ally and Interactive Brokers) with the

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subpoenas. Unsurprisingly, those three compliant firms held relatively few accounts implicated by the superseding indictment. In contrast, the other five Retail Brokerage Firms were more actively involved and held larger numbers of implicated accounts. Those five firms have either told us they will refuse to produce any documents beyond those previously produced to the government (E*Trade and TD Ameritrade), objected in writing to the subpoenas and thus far refused to modify their positions (Charles Schwab and Fidelity), or been so dilatory in retaining counsel that no response of any kind is expected in the near future (Wells Fargo).

Rather than wait for the five noncompliant firms to file five separate motions to quash these five materially identical subpoenas, we respectfully request leave to file a single motion to compel compliance with all such subpoenas. Because the subpoenas are materially identical and the surrounding circumstances are substantially similar, the objections to them invite a common resolution, without prejudice to any one firm, and permitting us to file a single motion would advance the case, further the interests of justice, and promote judicial economy.

We will be prepared to address this request at the November 19, 2019 arraignment. Thank you for considering this submission.

Respectfully,

/s/ Jack Arseneault

/s/ David W. Fassett

/s/ Gregory D. Jones

cc: Daniel V. Shapiro, AUSA (Via ECF)
Catherine R. Murphy, AUSA (Via ECF)
Jennifer S. Kozar, AUSA (Via ECF)